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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,059	07/18/2003	James Traut	515858-2007	2281

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER

SANTOS, ROBERT G

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 03/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,059

Applicant(s)

TRAUT ET AL.

Examiner

Robert G. Santos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003 and on 31 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 17-32 and 34-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I and Species I in the reply filed on January 31, 2005 is acknowledged. The traversal is on the ground(s) that the same search would be conducted for the respective claims drawn to Inventions I and III. This is not found persuasive because Inventions I and III differ in classification, therefore requiring separate searches, due to their dissimilar structures (as clearly shown in Figures 1 and 21 of the application) and modes of operation.

The requirement is still deemed proper and is therefore made FINAL.

Specification

2. The disclosure is objected to because of the following informalities: In the fourth line of page 1, the term "pending" should be changed to the phrase --U.S. Patent No. 6,637,057--.

Appropriate correction is required.

Claim Objections

3. Claim 15 is objected to because of the following informalities: In the last line of claim 15, --- should be inserted after "base". Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 4, 7, 8, 11, 12, 14, 15 and 33 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Prolo '923 (note especially Figures 1-3; column 2, lines 55-58; column 3, lines 6-36 & 40-67; and column 4, lines 8-35).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prolo '923 in view of Zolecki '757. Prolo '923 discloses the use of body part contact means (18, 21a-21c, 23) and strap fastening means in the form of cleats (23) as opposed to comprising a hook and loop fabric type-style fastener as claimed. Zolecki '757 provides the basic teaching of a body part immobilization apparatus (20) comprising a body part contact means and strap fastening means in the form of a hook and loop fabric type-style fastener (52). The skilled artisan would have found it obvious at the time the invention was made to replace the cleats of Prolo '923 with a body part contact means and strap fastening means in the form of a hook and

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loop fabric type-style fastener in order to provide a simple alternative means for readily attaching and adjusting the restraining strap relative to the one or more side blocks as desired.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prolo '923 in view of Durham '766. Prolo '923 does not specifically disclose a condition wherein the body part contact means (18c, 21a-2c, 23) is of a color which is dissimilar to the color of the side block (18) to which the body part contact means is removably attached. Durham '766 provides the basic teaching of a body part immobilization apparatus (10) comprising body part contact means (42, 46) which are "preferably of a light color...[or] any color other than the color red which is so closely associated with the color of blood" (see Durham '766, column 4, lines 8-11 & 16-19). The skilled artisan would have found it obvious at the time the invention was made to provide the body part immobilization apparatus of Prolo '923 with body part contact means having a color which is dissimilar to the color of the side block to which the body part contact means is removably attached "so that the attending physician or emergency personnel can easily make a visual determination of the existence or presence of blood and the points adjacent to the patient's head from which the blood might be seeping or be flowing" (see Durham '766, column 4, lines 19-23).

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prolo '923 in view of Garth et al. '185. Prolo '923 does not specifically disclose a condition wherein the body part contact means (18c) is removably attached to the corresponding side block (18) by means of a two-sided adhesive fastener. Garth et al. '185 provide the basic teaching of a body part

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immobilization apparatus comprising body part contact means (1) removably attached to a supporting surface through the use of a two-sided adhesive fastener (30). The skilled artisan would have found it obvious at the time the invention was made to provide the body part immobilization apparatus of Prolo '923 with a two-sided adhesive fastener for removably attaching the body part contact means to the corresponding side block in order to provide a simple conventional fastening means for readily attaching the body part contact means to the corresponding side block as desired.

10. Claims 9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prolo '923 in view of McReynolds '262. Prolo '923 do not specifically disclose conditions wherein the strap fastening means (23) is rotatable, and wherein the body part contact means (21a-21c) are removably attached to the corresponding side block (18) by extending fastening means through corresponding openings in the body part contact means to engage the corresponding side block. McReynolds '262 provides the basic teaching of a body part immobilization apparatus comprising body part contact means (23, 24) which are removably attached to corresponding side support sections (as shown in Figure 1) through rotatable fastening means (also as shown in Figure 1 and as described in column 3, lines 6-12) extending through corresponding openings in the body part contact means to engage the corresponding side section. The skilled artisan would have found it obvious at the time the invention was made to provide the body part immobilization apparatus of Prolo '923 with rotatable strap fastening means and body part contact means removably attached to the corresponding side block by extending fastening means through corresponding openings in the body part contact means to engage the corresponding side

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block in order to provide yet another simple alternative means for readily attaching and adjusting the restraining strap relative to the one or more side blocks as desired.

Conclusion

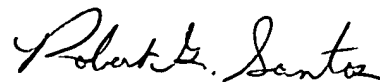
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DeMayo '621, Boucher et al. '389, Phillips et al. '852, Traut et al. '057, Phillips et al. '057, VanSteenburg et al. '324, Newkirk et al. '569, Tomcany et al. '216, Phillips et al. '487, Lutian et al. '270, Køhnke '712, Islava '486, Ferko, III '016, Niemeyer et al. '802, Garth et al. '393, Bodman '625, Boone, Jr. et al. '520, Wilson '418, Bowlin et al. '712, Henley, Jr. '656, Buzzese et al. '275, Behar '981, Bashaw '994, Watson '757, Scire '113, Miller '322, Winner '748 and Morrison '777.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert G. Santos
Primary Examiner
Art Unit 3673

R.S.
February 23, 2005